

REMARKS

The Applicants hereby thank the Examiner for the observations in the outstanding final Office Action, for the acceptance of the December 9, 2004, Replacement Informal Drawing Sheet 4/4, and for entering the December 9, 2004, conforming amendment to the Specification. The Applicants appreciate that the Examiner has implicitly withdrawn Fincham (US 4,139,734) as a cited reference. Claims 2 and 12 are herein canceled, without prejudice, and Claims 1 and 11 are herein amended to better encompass the full scope and breadth of the present invention, notwithstanding the Applicants' belief that the claims would have been allowable as originally filed. The remaining claims now subsume the features of their respective base and intervening claims. Accordingly, the Applicants respectfully assert that no claims have been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Therefore, reconsideration of the present application in light of the foregoing amendment and these remarks is respectfully requested.

I. Rejection of Claims 1 and 11 under 35 U.S.C. § 102(b).

Claims 1 and 11 have been rejected, under 35 U.S.C. § 102(b), as being anticipated by Kurita et al. (JP 63036698 A). Independent Claim 1 is herein amended only insofar as to better describe the present invention by inserting the following language: "wherein the angularly positioning means comprises: means for indicating an angular rotation of the surround sound tower relative to the base plate; and means for facilitating rotation of the angular rotation indicating means." Independent Claim 11 is herein amended only insofar as to better describe the present invention by inserting the following language: "wherein the step of providing the angularly positioning means comprises the steps of: providing means for indicating an angular rotation of the surround sound tower relative to the base plate; and providing means for facilitating rotation of the angular rotation indicating means." Notwithstanding any amendment made herein to the claims for better describing the present invention, the Applicants hereby respectfully traverse this ground for rejection of the claims on this basis. The Applicants believe that the present invention is patentable over the cited reference for the following reasons.

As conceded by the Examiner in Paragraph 2 of the Office Action, Kurita “fail[s] to disclose means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation indicating means.” Further, Kurita merely teaches “A transmission signal from a remote means is received to control the drive of motor 12 and *an upper cabinet 14a accommodating a speaker 15a is driven relatively to a lower cabinet 14b accommodating a speaker 15b* via spur gears 11a, 11b and positioned to a desired position by receiving a transmission signal from the remote means to control the drive of a motor 12” (Abstract) [emphasis added]. Kurita does not teach the presently claimed “means *for angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means*” (Claim 1) [emphasis added]. In essence, Kurita teaches the upper speaker cabinet 14a being *driven relative* to the lower speaker cabinet 14b. In contrast, the present invention *surround sound tower is angularly positioned on and relative to the base plate*, not relative to any lower speaker unit of any kind.

Consequently, herein amended independent Claims 1 and 11 now respectively and positively recite the following:

1. A surround sound system, comprising:
a surround sound tower being vertically disposed;
a base plate being horizontally disposed; and
means for *angularly positioning the surround sound tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means, wherein the angularly positioning means comprises:*
means for indicating an angular rotation of the surround sound tower relative to the base plate; and
means for facilitating rotation of the angular rotation indicating means. [Emphasis added.]
11. A surround sound method, comprising:
providing a surround sound tower being vertically disposed;
providing a base plate being horizontally disposed; and
providing means for angularly positioning the surround sound *tower on the base plate, the surround sound tower being mounted on, and normal to, the angularly positioning means, wherein the step of providing the angularly positioning means comprises the steps of:*
providing means for indicating an angular rotation of the surround sound tower relative to the base plate; and
providing means for facilitating rotation of the angular rotation indicating means. [Emphasis added.]

Thus, the Applicants respectfully submit that Kurita does not teach the subject matter of herein amended independent Claims 1 and 11 which are believed to overcome this ground for rejection. Therefore, the Applicants respectfully request that this ground for rejection of the claims on this basis be withdrawn and that Claims 1 and 11 be passed to allowance.

II. Rejection of Claims 2-7, 10, 11-17, and 20 under 35 U.S.C. §103(a).

Claims 2-7, 10, 11-17, and 20 have been rejected, under 35 U.S.C. §103(a), as being unpatentable over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322). Claims 2 and 12 are herein canceled, without prejudice, thereby rendering moot their grounds for rejection. As discussed, supra, independent Claims 1 and 11 are herein amended as discussed, supra. Independent Claim 10, already having such language, has not been further amended. Dependent Claims 3-7, 11, 13-17, and 20 now subsume the limitations of their respectively amended base claims and any other intervening claims. Notwithstanding any amendment made herein to the claims for better describing the present invention, the Applicants hereby respectfully traverse these grounds for rejection of the claims on this basis. The Applicants believe that the present invention is patentable over the cited references for the following reasons.

Regarding Kurita, the Examiner concedes that this cited reference “fail[s] to disclose means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation indicating means.” The Examiner has cited Wilson, in combination with Kurita, for asserting a motivation for the presently claimed *means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation indicating means*. However, a closer reading of Wilson will show that this cited reference does not provide any such motivation. The Examiner even concedes, in Paragraph 2, that “Wilson teaches [] means for indicating a *movement or translation*” [emphasis added] The Examiner has not stated that the movement is, by any means, rotational, but concedes that it is only translational.

Specifically, the Examiner asserts that “a person of ordinary skill ... would employ the Wilson means for indicating a movement or translation ... with the Kurita ... design[,] because the [Wilson] *means for indicating* a movement or *translation would provide an accurate measurement of* the [Kurita] speaker *rotating needed to adjust the speaker* to an optimum

listening position” In essence, the Examiner has advanced the following rationale in support of the grounds for rejection of the present claims on the basis of obviousness: **that means for indicating a translation would provide a measurement of rotation** (Office Action, p.3). The Applicant respectfully submits that the Examiner’s claim construction, with respect to the present invention, has been **“lost in translation,”** so to speak, in light of the cited references. In particular, “rotation” is defined as “the act or process of turning around a center or an axis”¹ In contrast, “translation is defined as follows: “3. *Physics*. Motion of a body in which every point of the body moves parallel to and the same distance as every other point of the body; ***nonrotational*** displacement.”² [Emphasis added.] This being so, any suggestion or motivation provided by Wilson is entirely inapposite to the present invention, i.e., a translational indicator does not and cannot suggest a rotational indicator.

Rather, Wilson merely, at best, merely suggests a speaker assembly comprising *means for linear adjustment and calibration of the relative positions of the drivers* (Abstract). Wilson’s adjusting and calibrating means is limited to a *purely translational adjustment and calibration* of the drivers using an individual adjusting and calibrating mechanism for each driver which permits only linear adjustment relative to any other drive in the system which may be “accomplished by adjusting the position of a mounting sub-assembly which supports the other drivers relative to the ‘fixed’ component” (col. 3, ll. 47-55; Fig. 6).

Specifically, Wilson discloses only translational (linear) movement of the drivers for improving the constructive interference patterns (col. 2, ll. 39-64). This linear or “ruler” configuration is further taught by Wilson as follows: “The upper mounting sub-assembly 21 rests upon an adjustable support 23 ...” (col. 4, ll. 17-18); “... the speaker assembly 11 ... is particularly adapted for *adjusting the various drivers generally fore and aft* relative to a critical listening point ...” [Emphasis added.] (col. 4, ll. 24-27); and “Referring to FIG. 6, the position of the woofer 13 relative to the other drivers in the system is ***adjusted by sliding the mounting sub-assembly 21 along a calibrated track 23*** ...” [Emphasis added.] (col. 4, l. 66 - col. 5, l. 2). Wilson specifically teaches phase alignment for each speaker element relative to any other speaker element by sliding a respective elongated rod 22.

¹The American Heritage Dictionary, 3rd Ed., Houghton Mifflin Company, p. 1570 (1992).

²*Id.* at 1902.

In contrast to Kurita, even in view of Wilson, the present invention comprises a purely *rotational adjusting means* as well as *means for indicating an angular rotation*, i.e., an entirely distinct mechanism and structure, and is fully disclosed in the originally filed Specification (para. 3, ll. 15-25; para. 9-10; para. 19, ll. 19-26) as well as in the originally filed drawings (Figs. 1-2) for angularly positioning the speakers as a unit. Each speaker in the present invention is not being adjusted relative to any other speaker. Rather, the entire row of speakers 10 or 11 is being rotated together, i.e., in concert, so to speak.

Further, Wilson teaches only a support base 12. Reiterating, the speaker components 15, 17, 19 do not rotate in relation to the support base 12. Distinctively, the present invention surround sound tower 10 or 11, having a row of speakers, is *both vertically disposed as well as angularly positioned* in relation to *a base plate 20 being horizontally disposed* (Figs. 1 and 2). The Applicants respectfully submit that Wilson does not teach the presently claimed elements: *a surround sound tower being vertically disposed; a base plate being horizontally disposed; and means for angularly positioning.*

Thus, the Applicants respectfully submit that Kurita, even in view of Wilson, does not teach, suggest, nor motivate the subject matter of herein amended independent Claims 1 and 11 nor unamended Claim 10 which are believed to overcome these grounds for rejection. As such, the Applicants believe that Kurita, even in view of Wilson, does not teach the subject matter of dependent Claims 3-7, 11, 13-17, and 20. Therefore, the Applicants respectfully request that these grounds for rejection of the claims on this basis be withdrawn and that Claims 1, 3-7, 10, 11, 13-17 be passed to allowance.

III. Rejection of Claims 8, 9, 18, and 19 under 35 U.S.C. §103(a).

Claims 8, 9, 18, and 19 have been rejected, under 35 U.S.C. § 103(a), as being unpatentable over Kurita et al. (JP 63036698 A), in view of Wilson (US 4,450,322), and in further view of Shirasaki (JP 61020489). The claims are herein amended only insofar as has been described, supra. Notwithstanding any amendment made herein to the claims for better describing the present invention, the Applicants hereby respectfully traverse these grounds for rejection of the claims on this basis.

Reiterating, the Examiner concedes, in Paragraph 2 of the Office Action, that Kurita “fail[s] to disclose means for indicating an angular rotation of the surround sound tower relative to the base plate, and means for facilitating rotation of the angular rotation indicating means” and that “Wilson teaches [] means for indicating a *movement* or *translation*” [emphasis added] Shirasaki has been cited in combination with Kurita and Wilson as merely disclosing “means for indicating a sonic intensity.” For the reasons stated, supra, with respect to Kurita, in combination with Wilson, the Applicants respectfully submit that Kurita, even in view of Wilson, and even in further view of Shirasaki, does not teach, motivate, nor suggest the presently claimed patentably distinct combination of elements as recited in herein amended independent Claims 1 and 11, notwithstanding any teaching regarding the lighting equipment 6 of Shirasaki.

Thus, the Applicants respectfully submit that Kurita, even in view of Wilson, and even in view of Shirasaki, does not teach, motivate, nor suggest the subject matter of herein amended independent Claims 1 and 11 which are believed to overcome these grounds for rejection. As such, the Applicants believe that Kurita, even in view of Wilson, and even in further view of Shirasaki, does not teach the subject matter of dependent Claims 8, 9, 18, and 19. Therefore, the Applicants respectfully request that these grounds for rejection of the claims on this basis be withdrawn and that Claims 8, 9, 18, and 19 be passed to allowance.

CONCLUSION

Accordingly, Claims 2 and 12 are herein canceled, without prejudice, and Claims 1 and 11 have been herein amended to better encompass the full scope and breadth of the present invention, notwithstanding the Applicants' belief that the claims would have been allowable as originally filed. The remaining claims now subsume the features of their respective base and intervening claims. The Applicants believe that pending Claims 1, 3-11, and 13-20 are patentably distinct from the cited references, are in allowable form, and overcome the grounds for rejection on the foregoing bases. Therefore, reconsideration of the present application in light of the foregoing amendment and these remarks is respectfully requested. The Examiner is further cordially invited to telephone the undersigned for any reason which would advance pending claims to allowance.

Respectfully submitted,



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